DRAFT

October 12, 2004

STATE WATER RESOURCES CONTROL BOARD
WATER QUALITY ORDER NO. 2004-____-DWQ

GENERAL ORDER REQUIRING OWNERS AND OPERATORS OF SPECIFIED VESSEL TERMINALS LOCATED IN NEWPORT BAY AND HUNTINGTON HARBOUR TO INSTALL, MAINTAIN, AND OPERATE PUMPOUT FACILITIES AND DUMP STATIONS WHERE NECESSARY TO PROTECT WATER QUALITY
(GENERAL ORDER)

The State Water Resources Control Board (State Board) finds that:

The Federal Clean Vessel Act prohibits the discharge of sewage into No Discharge Zone (NDZ) waters. An NDZ is an area of a water body or an entire water body into which the discharge of treated or untreated sewage from all vessels is prohibited to protect environmentally sensitive areas, including shellfish beds, coral reefs, and fish spawning areas, or drinking water sources. States can establish NDZs if they can demonstrate to United States Environmental Protection Agency (U.S. EPA) that safe and adequate vessel sewage pumpout facilities are available

2. Newport Bay and Huntington Harbour were designated NDZs by the U.S. EPA in 1976. At that time, there was an appropriate number of pumpout facilities in Newport Bay and Huntington Harbour. Since that time, there has been an increase in the number of vessels using both harbors.

3. In 1988, the Santa Ana Regional Water Quality Control Board (Santa Ana Regional Board) found that the vessel waste program in Newport Bay was inadequate and thus adopted Resolution No. 88-89 and Orders No. 88-83, 88-84, 88-85, 88-89, 88-91. Resolution No. 88-89 approved a vessel pumpout program for Newport Bay and the other orders required certain vessel terminals to install vessel pumpout facilities. These orders were neither waste discharge requirements nor enforcement actions, and no follow-up was done to determine compliance. Currently, these orders and the resolution are active and would need to be rescinded prior to any action by the State Board.

4. Water contact recreation (REC1) is one of the designated beneficial uses for Huntington Harbour. Water contact recreation (REC1) and shellfish harvesting (SHEL) are designated beneficial uses for Newport Bay. The Water Quality Control Plan (Basin Plan) specifies numeric water quality objectives for fecal coliform bacteria in order to protect these designated beneficial uses of Huntington Harbour and Newport Bay. Discharges of sewage from vessels adversely affect these beneficial uses and may cause or contribute to violation of the fecal coliform objectives.

5. In 1994, Newport Bay was listed on the federal Clean Water Act Section 303(d) list of impaired water bodies due to bacterial contamination. In 1998, the Santa Ana Regional Board established the Newport Bay fecal coliform total maximum daily load (TMDL) to address bacterial contamination. The TMDL includes a zero waste load allocation for vessel waste discharges, in recognition of the NDZ status of the Bay. The TMDL requires the City of Newport Beach and the County of Orange to conduct additional studies to assess the effectiveness of the vessel pumpout program.

6. In 1994, Huntington Harbour was listed on the 303(d) list of impaired water bodies due to bacterial contamination. No bacteria TMDL has yet been established for Huntington Harbour. Once established, the TMDL is expected to include a zero waste load allocation for vessel waste discharges, in light of the NDZ status of Huntington Harbour.

7. California Harbors and Navigation Code Section 776 provides the authority to the State Board to require vessel terminal owners/operators to provide adequate vessel sewage retention device pumpout capability at locations that are convenient to the vessel users. Title 23, Chapters 20 and 20.1 of the California Code of Regulations implements the Harbors and Navigation Code requirements for vessel sewage waste.

8. California Code of Regulations (Title 23, Chapters 20 and 20.1) contain regulations for the State Board and Regional Water Quality Control Boards (Regional Boards) to follow in requiring any person lawfully vested with the possession, management, or control of a vessel terminal to provide adequate vessel sewage retention device pumpout capability at locations which are convenient and accessible to vessel users. The regulations include standards establishing criteria for the design, construction, operation, and maintenance of pumpout facilities and specifies administrative procedures to be followed to provide a standard method of determining which vessel terminals shall be required to install and operate these facilities.

9. If the Regional Board determines there is a need for additional pumpout facilities, the Regional Board is to request that the State Board require specified vessel terminals to install and operate the vessel waste pumpout facility where necessary to protect water quality. The Regional Board is also required to provide a list of the existing vessel terminals in the area being considered for additional pumpout facilities, whether these vessel terminals are privately owned or publicly owned, whether they are for private or public use, and the locations of existing pumpout facilities.

10. If the Regional Board determines that there is no public vessel terminal within an area in which additional pumpout facilities are needed, the State Board is required to hold a public hearing to determine whether private vessel terminals should be designated to provide pumpout facilities.

11. In October 2002, the Orange County CoastKeeper (OCCK) conducted a survey of pumpout facilities in Huntington Harbour and Newport Bay and found significant deficiencies. Problems noted included inoperable pumpout facilities, poor housekeeping, and limited or no access to the existing pumpout facilities.

12. On March 19, 2003, Santa Ana Regional Board staff and OCCK surveyed several of the pumpout facilities surveyed in the OCCK study. Santa Ana Regional Board staff noted similar deficiencies. In addition, Santa Ana Regional Board staff determined that there are no dump stations in Newport Bay or Huntington Harbour. Dump stations are used by boaters who have an on-board port-a-potty to receive and retain sewage in lieu of an installed sewage retention device.

13. Based on the surveys and consideration of relevant federal and state guidelines, Santa Ana Regional Board staff prepared a "Pumpout Facilities Need Report" (Report). The Report lists the existing publicly and privately-owned vessel terminals in Newport Bay and Huntington Harbour; specifies whether these vessel terminals are for public and/or private use; and, identifies the locations of existing pumpout facilities. The Report describes the observed deficiencies in the

vessel sewage disposal program in both waterbodies and specifies a recommended "Vessel Sewage Disposal Program".

14. Based on the findings of the Report, three (3) additional pumpout facilities and three (3) dump stations are necessary in Huntington Harbour; five (5) additional pumpout facilities and three (3) dump stations are necessary in Newport Bay. The locations of the needed pumpout facilities and dump stations are specified in the recommended "Vessel Sewage Disposal Program". Further, to ensure the success of the recommended program in Huntington Harbour and Newport Bay, the Santa Ana Regional Board has recommended that vessel terminal owners/operators and/or responsible agencies implement an operation, maintenance, public education and outreach program. The installation and maintenance of these facilities are necessary to comply with NDZ provisions and to protect REC-1 and SHEL beneficial uses in Newport Bay and Huntington Harbour.

15. The Santa Ana Regional Board held public workshops on May 16, 2003 and August 22, 2003 to solicit comments regarding staff's recommendations for additional pumpout facilities, the need for dump stations, and the operation, maintenance, public education and outreach and monitoring program specified in the "Pumpout Facilities Need Report". Santa Ana Regional Board staff also had extensive discussions with interested agencies and parties, who provided comments leading to modification of the recommended "Vessel Sewage Disposal Program".

16. On August 22, 2003, the Santa Ana Regional Board approved Resolution No. R8-2003-0074, approving the pumpout facility need delineated in the "Pumpout Facility Need Report" and requesting that the State Board adopt requirements implementing the recommended "Vessel Sewage Disposal Program" for Newport Bay and Huntington Harbour. These include requirements for the installation of additional vessel waste disposal facilities (pumpout facilities and dump stations) at specified vessel terminals and the implementation by responsible parties and agencies of specified operation, maintenance, public education and outreach, and monitoring programs.

7. On September 10, 2003, the Santa Ana Regional Board submitted a "Transmittal of Regional Board Recommended Vessel Sewage Disposal Program for Newport Bay and Huntington Harbor" to the State Board, requesting that the State Board require the implementation of the recommended "Vessel Sewage Disposal Program" in Newport Bay and Huntington Harbour.

18. Under the Harbors and Navigation and Code and applicable State Board regulations, the State Board is authorized to require vessel terminals to install facilities for the transfer and disposal of sewage from marine sanitation devices. The Harbors and Navigation Code defines marine sanitation device to mean "any equipment on board a vessel which is designed to receive, retain, treat, or discharge sewage and any process to treat the sewage". The State Board is also authorized to, and has, adopted standards governing the design, construction, operation and maintenance of vessel pumpout facilities.

19. It is appropriate to approve authorized provisions of the Santa Ana Regional Board's "Recommended Vessel Sewage Disposal Program" in order to protect water quality in Newport Bay and Huntington Harbour. These provisions include the requirements to install pumpout

facilities and dump stations and to comply with existing mandates in the Harbors and Navigation Code and applicable State Board regulations.

20. The Santa Ana Regional Board developed a comprehensive Vessel Sewage Disposal Program which requires the installation of pumpout facilities and dump stations in compliance with existing mandates of the Harbors and Navigation Code and applicable State Board regulations. In addition, the proposed Vessel Sewage Disposal Program contains requirements related to cost provisions, education and access, and live-aboard vessels. The State Board does not have the authority to require implementation of these additional requirements, but the Santa Ana Regional Board may implement these provisions under their own authorities, as appropriate.

21. On November 3, 2004, the State Board held a public hearing to receive comments and testimony on the proposed adoption of a general order requiring specified vessel terminal owners/operators to install and operate vessel waste pumpout facilities and dump stations at the specified locations. The proposed order includes an implementation schedule. The State Board has considered the evidence in the record, including the hearing record, in reaching a decision on this proposed order. In particular, the State Board and the Santa Ana Regional Board have considered the number and types of vessels that use or are berthed at the vessel terminals and whether there are pumpout facilities at other locations that are convenient, accessible, and have sufficient capacity for vessels that use or are berthed at the vessel terminal. The California Department of Boating and Waterways administers the Clean Vessel Act Pumpout Grant Program to reimburse recipients for up to 75% of the installed cost of pumpout facilities and dump stations. The grant is available to the private and public sector.

22. Issuance of a State Board Order requiring the installation and operation of pumpout facilities at specified vessel terminals is exempt from the requirement of the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* as an action to protect the environment (Title 14, CCR Section 15308) and an action requiring the placement of minor structures accessory to existing commercial or institutional facilities (Title 14, CCR Section 15311).

23. Further, the State Board and the Santa Ana Regional Board have considered the factors specified in the California Code of Regulations [title 23, section 2834.1(c)] in determining which marine terminals should be required to provide pumpout facilities. A detailed explanation of these factors is contained in the Fact Sheet to this order, which is hereby incorporated into this order.

IT IS HEREBY ORDERED that owners and/or operators of specified vessel terminals shall comply with the following:

A. Pumpout Facilities and Dump Stations:

1 **Newport Bay** – Owners of vessel terminals located in Newport Bay required to install additional sewage disposal facilities, at locations that are convenient and accessible to the vessel users, include:

a. Swales Yacht Anchorage - 2888 Bayshore Drive –Installation of one pumpout facility.

b. Bayshores Marina - 301 Shipyard Way - Installation of one pumpout facility.

c. **Bahia Corinthian Yacht Club** - 1601 Bayside Drive – Installation of one pumpout facility.

d. **Lido Yacht Anchorage/Dry Storage (Bellport)** - 201 Shipyard Way – Installation of one pumpout facility and one dump station.

e. **Bayside Village (De Anza)** – 300 East Coast Highway – Installation of one dump station.

f. **Newport Dune Resort Marina** – 101 N. Bayside Drive – Installation of one dump station.

g. **Balboa Marina** – 201 East Pacific Coast Highway – Installation of one pumpout facility.

2. **Huntington Harbour** – Owners of vessel terminals located in Huntington Harbour required to install additional sewage disposal facilities, at locations that are convenient and accessible to the vessel users, include:

   a. **Davenport Marina** – 4052 Davenport Drive, Huntington Beach - Installation of one pumpout facility.

   b. **Coral Cay Marina** – 27405 Puerta Real, Mission Viejo – Installation of one pumpout facility.

   c. **Tennis Club Estates** – 2888 Bayshore Drive, Huntington Beach – Installation of one pumpout facility.

   d. **Sunset Aquatic Marina** - 2901 A Edinger Avenue, Huntington Beach – Installation of two dump stations.

   e. **Lifeguard Dock** – City of Huntington Beach – Installation of one dump station.

3. For facilities managed by a Homeowners' Association, where the association determines that it cannot justify the need based on a low number of boats with marine sanitation devices or the expense of installing a vessel waste pumpout facility, the Santa Ana Regional Board may authorize, subject to appropriate conditions, the Homeowners' Association to employ a private pumpout service to pumpout the appropriate boats on a consistent and regular schedule in lieu of installing pumpout facilities.

4. Where a vessel terminal owner/operator determines that a pumpout facility cannot be installed as required, the Santa Ana Regional Board may allow, subject to appropriate conditions, the owner/operator to contract with a private pumping service for all of its tenants' vessels as an alternative to installing the required pumpout facility.

4. With Santa Ana Regional Board approval and subject to appropriate conditions, landside restroom facilities may be used as an alternative to installation of a required dump station at vessel terminals with less than 50 vessels under 26 feet in length.

B. Design and Construction

Pumpout Facility Design and Use:

a. All pumpout facilities shall be equipped with a meter for the purpose of measuring use of the pumpout facility.

b. The pumpout facility must be designed or utilized such that all sewage transferred from vessel marine sanitation devices is stored or disposed of in a manner approved by the Santa Ana Regional Board and in accordance with local ordinances.

2. Prevention of Leakage and Spillage:

All pumpout facilities shall be designed and constructed in such a manner that there shall be no leakage or spillage of sewage.

3. Pump Design Requirements:

Pumps provided at the pumpout facility for the transfer of waste from vessel to the pumpout facility and from the pumpout facility to the disposal system shall:

a. Be of sufficient size and capacity to complete the transfer operation in a reasonable amount of time when operating against the maximum anticipated head.
b. Be designed and installed to prevent leakage or spillage.
c. Be designed and installed to meet all safety requirements.
d. Be constructed of corrosion-resistant material.
e. The pumps may be either of fixed or portable type installation.

4. Storage Tank Design Requirements:

Storage tanks used to store pumpout waste shall:

a. Be designed and constructed to allow for complete emptying of contents into a disposal system or waste haulers tank.
b. Be equipped with a means of determining the amount of sewage in the tank.
c. Be equipped with a means of preventing backflow from the storage tank into the pumpout system.
d. Be designed and constructed to prevent overflow or spillage.
e. Be designed and installed to protect against a 1-in-100 year flood.
f. Be constructed of material capable of withstanding solar radiation and chemical action of freshwater, saltwater, chemical additives and sewage without excessive deterioration.
g. Be designed and constructed such that the sewage enters the tank above maximum storage level.

5. Design Requirements for Piping and Hoses:

   All piping/hosing used in the design and construction of a pumpout system shall

   a. Be designed to withstand any pumping pressure or vacuum encountered without leakage.
   b. Be constructed of material capable of withstanding solar radiation and chemical action of freshwater, saltwater, chemical additives, and sewage without excessive deterioration.
   c. All fittings shall be of corrosion-resistant material and shall be so constructed and installed as to ensure a water-tight seal. All pumpout systems shall be designed and constructed to have a minimum capability of pumping out vessel marine sanitation devices having 1 ½-inch fittings. The system shall be designed and constructed to prevent leakage when transferring or when the system is disconnected. This would normally require a minimum of four valves; one on each side of the pump, plus one at the storage tank, and one at the vessel holding tank connection.

6. Pumpout Facility Water Supply Required:

   The pumpout facility shall be designed and constructed such that a water supply is available at appropriate locations for flushing and cleaning vessel holding tanks and storage tanks. The water supply shall be protected against back-siphonage of waste into the water system by a back-flow prevention device meeting the standards established by the State Board of Public Health in Group 4 (commencing with Section 7583), Subchapter 1, Chapter 5, Part 1 of Title 17 of the California Administrative Code.

C. Operation and Maintenance Instructions:

1. Vessel disposal facilities for the transfer and disposal of sewage from marine sanitation devices, floating restrooms, and onshore toilets shall be operated and maintained in a manner that will prevent the discharge of any sewage to the waters of the state and shall be maintained in good working order and regularly cleaned.

2. Vessel terminal owners/operators shall prepare a set of operation and maintenance instructions to be used in the operation and maintenance of the pumpout facility/dump station. The operation and maintenance instructions shall be available for inspection at the pumpout facility/dump station and if found to be deficient by Santa Ana Regional Board staff, the vessel terminal owner/operator shall correct the instruction within thirty (30) days.

3. The operation instructions shall have a detailed explanation of valve positions when the system is transferring sewage and when the pumpout facility/dump station is not being used.

4. The operation and maintenance instructions shall include methods that will be used to isolate portions of the pumpout facility/dump station system for maintenance and repair.

5. Every vessel pumpout facility shall have a notice posted on the facility identifying the city, county, local public health officer, or boating law enforcement officer responsible for enforcing the Harbors and Navigation Code pursuant to Section 779, with the telephone

number where an inoperable facility or a violation may be reported.

D. Inspection and Maintenance

1. The entire pumpout system shall be inspected by the operator at regular intervals not exceeding six months and any worn components replaced. The Santa Ana Regional Board staff shall inspect the facility at regular intervals not to exceed one year.

2. Vessel terminal owners/operators must maintain, and provide for inspection at any time, maintenance and monitoring logs at the site of each pumpout facility/dump station.

E. Time Schedule:

Vessel terminal owners must comply with the following installation time schedule:

Task	***Compliance Date***
• Indicate commitment to install the additional pumpout facilities and/or dump stations via letter to the Executive Officer of the Santa Ana Regional Board	30 days after State Board Order Issued
• Prepare and submit plans and specifications for pumpout facility/dump station installation to the Executive Officer of the Santa Ana Regional Board. If the Executive Officer does not approve of the pumpout facility and dump station location, or determines the plans and specifications are inadequate, the vessel terminal operator shall prepare new or supplemental plans and specifications in accordance with a schedule set by the Executive Officer of the Santa Ana Regional Board.	90 days after commitment
• Submit plans and agreements for pumpout facility/dump station maintenance to the Executive Officer of the Santa Ana Regional Board.	30 days after plans and specs approved
• Begin construction and installation of pumpout facility/dump station.	30 days after maintenance plans submitted to Santa Ana Regional Board
• Complete construction and installation of pumpout facility/dump station.	90 days after construction commencement
• Notify Executive Officer of the Santa Ana Regional Board.	Within 30 days after construction completed.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted a meeting of the State Water Resources Control Board held on November 18, 2004.

AYE:

NO:

ABSENT:

ABSTAIN:

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Debbie Irvin
Clerk to the Board